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## TECHNICAL STAFF REPORT

*Petition Accepted on March 19, 2007  
Planning Board Meeting of June 21, 2007  
County Council Hearing to be scheduled*

**Case No./Petitioner:** ZRA-84 – Veli Demirel

**Request:** Zoning Regulation Amendment to Section 103.A. of the Definitions section to add a new definition for the term “School, Business”; to Section 117.3.B. of the OT District section to revise the requirements for site frontage and access; to Section 117.3.C. to add “Business School” as a use permitted as a matter of right in the OT District; to Section 117.3.E. to increase the maximum parcel size for an OT District to 2.5 acres; and to Section 117.3.G. to revise the standards for approval of an OT District petition to increase the maximum building size and to add density and setback requirements intended to apply to Business School uses.

**Department of Planning and Zoning Recommendation:** Approval, but only with major revisions

### I. DESCRIPTION OF PROPOSAL

- # The Petitioner proposes several amendments to the Zoning Regulations. These amendments principally concern changes to the OT (Office Transition) District for two basic issues. The original petition was principally submitted in order to allow a business school use to be permitted in the OT District, and to increase the maximum permitted building to be 7,000 square feet, instead of the current 5,000 square feet, although there are other changes.

An additional amendment was submitted on March 28, 2007 for a different issue. This added amendment concerns changing the current frontage and access requirement for a site to be eligible for the OT District, so as to broaden the number of potential sites. The Petitioner states that one reason for this amendment is because “The Office Transition District has had very little usage because of the limiting factors under the regulations.”

- # Due to the scope of the amendments proposed, and because the format of the two petition forms may be hard to follow, the Department of Planning and Zoning has prepared “ZRA 84 Attachment A” which is the text as proposed by the Petitioner, condensed into one document. The following brief descriptions of the various amendments provide page references to Attachment A (CAPITALS indicates text to be added; text in [[brackets]] indicates text to be deleted):

**I. DESCRIPTION OF PROPOSAL (continued)**

**1. Page 1**

The Petitioner proposes to amend the Section 103 Definitions section of the Zoning Regulations to add a new definition for the term “School, Business”. The Petitioner notes that this text is taken from the Code of Maryland. The Petitioner did not specify the precise subsection number for this new definition, but as Section 103.A. is alphabetical Attachment A shows this proposal in the correct position of Section 103.A.144.

**2. Page 2**

This page includes two proposed changes. The Petitioner proposes to amend Section 117.3.B.1. in order to change the site location factor for potential OT District sites. The way this proposed amendment is written may be interpreted in several ways, but as written it appears to propose that a site would be eligible for the OT District if; it has frontage on and direct access to an arterial road (current requirement); or has frontage on and direct access to a collector road; or has frontage on and no direct access to an arterial or collector road, but is within 100 feet of the arterial or collector road.

The Petitioner proposes to amend Section 117.3.C. to add “Business School” as a use permitted as a matter of right in the OT District.

**3. Page 3**

This page includes one minor change. The Petitioner proposes to amend Section 117.3.E.1. to increase the maximum size for an OT District located in the Planned Service Area for water and sewer to 2.5 acres from the current two acres.

**4. Page 4**

This page includes two changes. The Petitioner proposes to amend Section 117.3.G.7. to increase the maximum size for a building in the OT District to 7,000 square feet, from the current 5,000 square feet.

The Petitioner proposes to amend this same section to add a new Section 117.3.G.9. and 117.3.G.10. which, although not specifically designed as such, are intended as criteria to be applied to any business school use in the OT District. The Petitioner states in the petition that these sections were copied from the Conditional Use criteria for academic schools. They would set a maximum student density of 30 students per acre, and would set a 50 foot use and structure setback, which may be reduced to 20 feet if approved subject to certain criteria.

## **II. EXISTING REGULATIONS**

- # **The OT District regulations were first established with the 2004 Comprehensive Zoning Plan, in an effort to create the potential for the redevelopment of residential properties that adjoin commercial areas, such as along US 40, for relatively low intensity office developments. This was intended to result in a better transition by having a low intensity office use adjoin the adjacent residential neighborhood, rather than having a higher intensity commercial use such as a retail use adjoin the residential neighborhood.**

As originally proposed, the only permitted uses were those which are now numbered 2 through 6 in Section 117.3.C. The use category for Animal Hospitals was added as an amendment during the 2005 Continuation of the Comprehensive Zoning Process ("Comp Lite").

## **III. BACKGROUND INFORMATION**

### **A. Scope of Proposed Amendments**

- # **The proposed addition of a new definition for the term School, Business could technically be applied anywhere in the Zoning Regulations this term is used. However, this term is not currently used elsewhere in the Zoning Regulations, because the use category long used to include such business schools is Schools, Commercial.**

It is true that there is no specific definition in Section 103 for the term Schools, Commercial, but as the term is used, to state "...including driving schools, business schools, trade schools, art schools and other commercially operated schools", it is very clear what is meant and having a specific definition has never been necessary.

- # **The remainder of the proposed amendments are only applicable to the OT District, and therefore, would only be applicable to properties proposed for that district through the stated procedures.**

### **B. Agency Comments**

- # **The following agencies had no objections to the petition:**

1. Bureau of Environmental Health
2. Department of Fire and Rescue Services
3. Department of Inspections, Licenses and Permits

#### IV. EVALUATIONS AND CONCLUSIONS

**A. Relation to the General Plan**

- # **The Department of Planning and Zoning concurs with the Petitioner that the spirit of what is intended with the proposed amendments is in harmony with Balanced and Phased Growth Policy 4.4 to “Make efficient use of land resources for long-term economic growth”, and to facilitate renovation and redevelopment.**

It is recognized that as the County continues to grow and redevelop, there will be longstanding residential properties adjoining commercial areas or corridors which may have been quite suitable for residential uses in the past, but which may lose that suitability over time. Owners of such properties may find it becomes more difficult to sell their property for residential purposes. The OT District is intended to give such owners one option to re-use or redevelop their property for relatively small office or similar uses, and thereby to discourage pressure to extend commercial zoning with more extensive permitted uses.

In areas of the country with less-stringent zoning controls, this process tends to occur naturally through market forces; when an existing residential-use property adjoining a commercial corridor is no longer considered desirable for residential purposes because of the adjoining, more intense commercial uses, the existing dwelling is often converted over to office or commercial service related uses.

**B. Relation to the Zoning Regulations**

- # **In seeking to amend the OT District regulations so as to make it applicable to more properties, to expand the permitted uses slightly, and thereby to enhance the potential for its use, the proposed amendments are generally compatible with the Legislative Intent of the Zoning Regulations to “...promote the most beneficial relationship between the uses of land and structures...”.**

**C. Recommended Revisions**

- # **Up to this time, the OT District has not been used for the purposes intended, and this may be due to the current limitations of the district mentioned by the Petitioner. The Department does have a willingness to refine the OT District regulations to increase the potential for its use, and although much of the basic intent of what is proposed by the Petitioner is sound, the manner in which some of the amendments are proposed are either unnecessary, are too broad, or are not formatted in the best way.**
- # **The significant revisions proposed by the Department of Planning and Zoning are given in “ZRA-84 Attachment B”. In the following section, the recommendations and the reasons for the recommendations are given on a page by page basis for Attachment B.**

**C. Recommended Revisions (continued)**

**1. Page 1**

As noted above, the Zoning Regulations already address a business school use under the existing use category of School, Commercial. It is unnecessary, and would be confusing, to add the almost identical School, Business category. The Department recommends that the Petitioner's proposal to amend Section 103.A be deleted.

**2. Page 2**

There are several significant concerns with the changes to Section 117.3.B.1. as proposed by the Petitioner. The inclusion of properties located along collector roads in addition to arterial roads is ill-advised because it would greatly expand the potential for the OT District into many areas of the County where such a district would not be appropriate and would not meet the purposes for the district. The Department recommends that the reference to collector roads be deleted.

The issue of a residential lot which adjoins an arterial road, and would qualify for an OT District in all ways except for the fact that the lot does not have direct access to the adjoining arterial road is a valid issue. Residential lots located on the corner of an intersection of an arterial road and another road may experience all of the negative impacts of being adjacent to a commercial area and an arterial road, but cannot qualify for the OT District because a new access onto an arterial road is prohibited if an access to a lower category road is available. The way the Petitioner proposes to address this shortcoming is not prudent, however, as it is not precise and could be subject to different interpretations.

The Department of Planning and Zoning recommendation concerning this issue has several elements. First, the Department proposes that the option for an OT District on a corner lot that adjoins but does not access an arterial road only be possible if the Planning Board finds the proposal to be favorable and officially recommends its approval. This would better ensure outstanding OT proposals that have good compatibility, and would weed out lesser proposals. Nothing would prevent the Zoning Board from denying any recommended case.

Another element of the recommended text is designing the locational qualifications to be significantly more precise. It must be specified that the lot is a corner lot at the at-grade intersection of an arterial road and another road; the Petitioner's text could allow by interpretation for a residential lot that technically adjoins a major arterial road such as US 29 but has its only access to a local road, and is located "across the street" (i.e., across US 29) from a commercial zoning district, to qualify for the district. One good example of this potentially bad situation would be the residential lots along Victoria Drive in Ellicott City that adjoin the west side of US 29, and are located across from a very distant POR district on the east side of US 29.

A minor recommended improvement is that the current reference to the "site" be deleted and replaced with the more precise term "lot".

**C. Recommended Revisions (continued)**

**2. Page 2 (continued)**

In Section 117.3.C.2, the proposal to add Business School should be deleted because, as noted above, that new category is not needed.

To replace it, the section should be amended to add Schools, Commercial as a permitted use, but with limitations concerning the character of the allowable commercial schools. Certain types of commercial schools, such as driving schools and certain trade schools for the construction trades, involve outdoor uses that are inappropriate for the type of lower-intensity transitional office uses the OT District is intended for. Therefore, the Department recommends that the commercial school uses in the OT District be limited to business schools, trade schools or art schools in which all training and instruction is given indoors only.

**3. Page 3**

The only change on Page 3 is the Petitioner's proposed amendment to revise the maximum district size in the Planned Service Area for water and sewer to 2.5 acres. The Department of Planning and Zoning has no concerns with this issue, and does not recommend any revisions.

**4. Page 4**

At the top of Page 4, the Department of Planning and Zoning recommends a change to the current text which is not directly related to the Petitioner's proposals. This change, to Section 117.3.F.2 concerning the Preliminary Development Plan ("PDP") requirements, would add a requirement that the principal use of a proposed OT District must be specified on the PDP.

A minor change to Section 117.3.G.2. is proposed to correct a typo in the current regulations.

The recommended changes to Section 117.3.G.7. include several elements. The increase to 7,000 square feet as proposed by the Petitioner should be deleted, because the current regulations already allow some potential for buildings larger than 5,000 square feet. However, the current regulations are not commonsensical in the reasoning used to justify an increase in the building size.

In explanation, this section starts off by requiring that the "...design of new structures or additions to existing structures will be generally compatible in scale and character with residential structures in the vicinity." The section then goes on to say that although buildings generally shall be no larger than 5,000 square feet, larger buildings may be allowed if the "...design is such that the building will be compatible with the general character of neighboring residential structures." In other words, it is allowing buildings larger than 5,000 square feet for the exact same reason already required for buildings 5,000 square feet or under. There is no clear extra benefit to be gained by allowing a building larger than 5,000 square feet.

**C. Recommended Revisions (continued)**

**4. Page 4 (continued)**

The Department of Planning and Zoning recommends revising this section in a way to set a definite extra standard that is necessary in order to get approval for buildings larger than 5,000 square feet. As proposed, it is revised so that the Zoning Board may approve a larger building up to 7,000 square feet, provided that the building not only meets the current test of compatibility with the existing residential structures in the vicinity, but also that the building is such that it will be a positive contribution to the character and appearance of the neighborhood because of an exceptional design.

The last revisions on Page 4 are at the bottom of that page but continue onto the top of Page 5. These revisions are to the Petitioner's proposal to set some type of additional student density and setback requirements for commercial school uses proposed in the OT District. The first revision would be to clearly state that commercial school uses are subject to the additional standards.

The second revision is to reduce the maximum student density and to delete the "...for lots less than three acres" portion of Section 117.3.G.9.a. The density should apply to all OT Districts. The proposed 30 student per acre density is considered to be too high, particularly for smaller sites in the Planned Service Area, and could result in overly large parking lots.

The approving entity for an OT District is the Zoning Board and is not the Hearing Authority, so the third revision corrects this.

**5. Page 5**

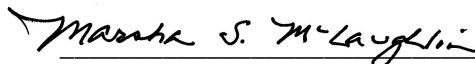
At the top of Page 5 is the continuation of the revisions to Section 117.3.G.9.b. The Petitioner proposes that the Zoning Board may reduce the stated 50 foot setback from residentially-zoned properties down to 20 feet, if certain standards are met. The Department of Planning and Zoning has no concerns with the Zoning Board allowing a reduction in the 50 foot setback, but because a 30 foot setback from residential properties is the standard requirement for the OT District in the Planned Service Area, this section should be revised to make the minimum 30 feet.

Finally, as a minor revision to Section 117.3.I.2. on an issue not contained in the Petitioner's proposal, the Department recommends establishing a set 30 day deadline for the submission of the reproducible PDP and other materials. Such set deadlines are missing from certain other districts with a similar requirement, and there have been cases when the required materials were not submitted for many months following an approval. If the OT District is to be amended at this time, it is efficient to establish this deadline at the same time.

**V. RECOMMENDATION**

Approval, subject to major revisions

For the reasons noted above, the Department of Planning and Zoning recommends that certain concepts of the ZRA-84 proposal as noted above be APPROVED, but that the format and text of these concepts be as recommended in ZRA-84 Attachment B, and not ZRA-84 Attachment A.

  
Marsha S. McLaughlin, Director

06/04/07  
Date

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**NOTE: The file on this case is available for review at the Public Service Counter in the Department of Planning and Zoning.**